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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,153	09/11/2003	Dennis V. Fletcher	21488/04102	2152
24024	7590	05/18/2005	EXAMINER	
CALFEE HALTER & GRISWOLD, LLP 800 SUPERIOR AVENUE SUITE 1400 CLEVELAND, OH 44114			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	

DATE MAILED: 05/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/605,153

Applicant(s)

FLETCHER ET AL.

Examiner

Jerry Redman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>1/13/04</u> . | 6) <input type="checkbox"/> Other: _____ |

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Applicant's election with traverse of Group II in the reply filed on 2/28/2005 is acknowledged. The traversal is on the ground(s) that "applicants respectfully submit that restriction is not proper in this case because search and examination can be made of the entire application without serious burden". This is not found persuasive because the applicant has clearly submitted claims 1-12 directed towards a door (the elected invention) and claim 13 directed to a method of affixing an access door to a structure (non-elected). The search for the method of affixing the door would not entail the search for the door itself and therefore would provide a serious burden to the Examiner. Claim 13 is hereby withdrawn from consideration.

The requirement is still deemed proper and is therefore made FINAL.

The applicant's information disclosure statement dated 1/13/2004 has been considered and a copy has been placed in the file. Furthermore, it appears that the cited U.S. published application 20020092662 has the incorrect inventor and "Young et al." has been changed to -Grant et al.--.

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the door member includes a window therein as recited in claim 12 must be shown or the feature(s) canceled from the claim(s). It appears that the applicant's drawings disclose a framed window and not a door having a window therein. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The disclosure is objected to because of the following informalities: the applicant describes Figures 2, 3, 9, and 10 as cross-sectional views ("cutaway view") but fail to specifically show exactly where these views are taken from.

Appropriate correction is required.

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Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 9, "peripheral frame" should be --said peripheral frame--. In claim 4, line 3, and claim 5, line 3, the phraseology "'L-shaped'" is not readily understood by the Examiner. Why is L-shaped in parenthesis? Does L-shaped have a different meaning being other than L-shaped? In claim 4, line 5, it appears that "peripheral frame" should be --said peripheral frame--. In claim 7, line 1, it is not readily apparent to the Examiner what "easily attachable" means? In claim 7, line 9, it appears that "a" should be --said--. In claim 8, line 2, it appears that "a" should be --said--. In claim 9, line 2, it appears that "a" should be --said--. In claim 10, line 4, it appears that "peripheral frame" should be --said peripheral frame--. In claim 11, line 2, the phraseology "cage system" is not readily understood by the Examiner. Is the "cage system" different than the door member?

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-11 are further rejected under 35 U.S.C. 102(b) as being anticipated by Eakin. Eakin discloses a door assembly providing a gap-free appearance comprising a peripheral frame (16, 18, and 20) attached to a door jamb (28) using no more than six or

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twenty screws (column 2, lines 40-41), a door member (46, or "cage system" being defined as anything that can hold sometime in) moveable on hinges (14) between a closed position within the peripheral frame (16, 18, and 20) and an open position, the door member (46) having a core (48) with inner and outer skins (50 and 52), an L-shaped core surround having a base (38) with two connecting legs (42) and an extending leg (56) with a weather seal (58) attached to the door member (46), and a mounting tape (30) sealing between the peripheral frame (16, 18, and 20) and the door jamb (28).

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:


(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is further rejected under 35 U.S.C. 103(a) as being unpatentable over Eakin in view of Hall. All of the elements of the instant invention are discussed in detail above except providing the door member with a window. Hall discloses a door member having a window (76) therein. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the door member of Eakin with a window attached therein as taught by Hall since a window allows one to see beyond and through the door.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. to Barkan discloses a framed section having a "tape" (17) extending about the peripheral edge. U.S. patents to McManus and Lindgren et al. disclose a door panel and framed section similar to that of the applicant's invention. U.S. patents to Stibolt specifically disclose screw holes for mounting the frame section similar to that of the applicant's invention.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman
Primary Examiner